

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

MIGUEL HERNANDEZ, *et al*,

Plaintiffs,

VS.

ADELAIDE HORN, *et al*,

Defendants.

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CIVIL ACTION NO. C-09-163

**ORDER**


On April 26, 2010, Defendants Iva Benson, Denice Geredine, Adelaide Horn, and Barry Waller filed notice of their interlocutory appeal to the United States Court of Appeals for the Fifth Circuit. (D.E. 81.) Defendants seek to appeal this Court's denial of their motion to dismiss and motion for summary judgment based on Defendants' assertion of qualified immunity. Defendants now file this unopposed<sup>1</sup> motion to stay all proceedings in the above-styled action pending the resolution of Defendants' interlocutory appeal. (D.E. 82.) "A district court's denial of a defense of qualified immunity is immediately appealable, and once an appeal is filed, the district court is divested of its jurisdiction to proceed against that defendant. Carty v. Rodriguez, 211 Fed.Appx. 292 (5th Cir. 2006) (citing Williams v. Brooks, 996 F.2d 728, 730 n. 2 (5th Cir. 1993)). Accordingly, Defendants' motion to stay is

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<sup>1</sup> Although Plaintiffs initially opposed Defendants' motion to stay proceedings, they later filed a response stating: "Although Plaintiffs were initially opposed to a stay of all proceedings, ... a review of case law reveals that Defendants are right.... [and Plaintiffs therefore] join in the appealing Defendants' request that the Court stay all proceedings until the appeal is resolved." (D.E. 83.)

GRANTED and the above-styled action is STAYED until the interlocutory appeal is resolved.

SIGNED and ORDERED this 29th day of April, 2010.

  
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Janis Graham Jack  
United States District Judge